

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x Case No. 07 CV 3116

WAN JIN LEEM,

Plaintiff,

v.

ANSWER

OK HWAN KIM, 341 SECOND AVE. FARM,
INC., DOES 1-100,

Defendants.

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Defendants, OK HWAN KIM and 341 SECOND AVE. FARM, INC., by and through their attorney, E. Peter Shin, Esq., as and for the Answer to the Complaint of Plaintiff WAN JIN LEEM herein, respectfully sets forth as follows:

1. Deny each and every allegations contained in paragraph 1 of the complaint except admit that Plaintiff worked as an employee of Defendants.

2. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2 of the complaint.

3. Admit the allegation contained in paragraphs 3, 4, and 5 of the complaint.

4. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 6 of the complaint.

5. Admit the allegation contained in paragraphs 7 of the complaint.

6. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 8 of the complaint except state that Plaintiff worked at night and had a one-hour meal break.

7. Deny each and every allegations contained in paragraph 9 of the complaint except state that the hourly rate for regular hours was \$7.25 and the hourly rate for the overtime hours was \$10.88 as per an Agreement between Plaintiff and Defendant.

8. Deny each and every allegations contained in paragraphs 10 and 11 of the complaint.

9. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 12 of the complaint.

10. Deny each and every allegations contained in paragraphs 13 and 14 of the complaint.

IN ANSWER TO THE FIRST CAUSE OF ACTION

11. Defendants repeat and re-allege each and every allegation contained in paragraphs 1 through 10 of this answer as though more fully set forth herein.

12. Deny each and every allegations contained in paragraph 16 of the complaint.

IN ANSWER TO THE SECOND CAUSE OF ACTION

13. Defendants repeat and re-allege each and every allegation contained in paragraphs 1 through 12 of this answer as though more fully set forth herein.

14. Deny each and every allegations contained in paragraph 18 of the complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

15. This Court lacks personal jurisdiction over the Defendants due to lack of proper service of the Summons and Complaint to said Defendants.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

16. For the years of 2004, 2005, and 2006, Plaintiff and Defendants entered into an employment agreement with respect to the hourly rate of pay for the regular hours and overtime hours.

17. As attached, according to an employment agreement dated January 1, 2006, Defendants agreed to pay Plaintiff for the regular hours at an hourly rate of \$7.25 and for the overtime hours at an hourly rate of \$10.88.

18. Defendants paid \$550.00 per week for Plaintiff's regular hours, overtime hours, and spread of hours.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

19. Plaintiff worked for 11 hours at night because he took a minimum of one-hour break for mealtime and sleeping.

WHEREFORE, Defendants respectfully demand judgment against Plaintiff as follows:

- a) Dismissing Plaintiff's complaint in its entirety, with prejudice;
- b) Awarding the costs and disbursements of this action in favor of the Defendants;
- c) Awarding such other and further relief as this Court deems to be just and proper.

Dated: Flushing, New York
May 9, 2007

Yours, etc.,
Law Offices of E. Peter Shin



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